



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable O. H. Slaughter  
County Attorney  
Martin County  
Stanton, Texas

Dear Sir:

Opinion No. O-2450

Re: What number should the  
judgment and transcript  
carry from the justice's  
docket in the described  
case?

We have received your letter requesting the  
opinion of this Department upon the above stated question.  
Your letter reads as follows:

"I would appreciate having your opinion  
based on the following statement of facts to-  
wit: A. and B. are accused of the same mis-  
demeanor offense and separate complaints are  
filed with the Justice and a warrant issues  
for their arrest. The cases being docketed  
separately as two cases; and in keeping with  
Art No. 879 O.C.P. Vol 1. The complaint is  
regular and in keeping with Art. No. 883 O.C.  
P. Vol 2.

"Before trial it is decided to combine  
the cases and try both defendants together  
which is concurred in by counsel for defend-  
ant and a new complaint is executed including

both defendants, charged with the same offense as was charged on the original complaints. It apparently being the intention of the Justice to use one of the original number as appearing on his docket, say the number given to A's case, include this on the new complaint filed to include each defendant and not assign a new number and a new case, or else the matter was overlooked and an entirely new case was overlooked and not docketed. At any rate the case was called and tried, based on the complaint that included both defendants and no error was discovered on the docket.

"The case was tried before a jury and a verdict of guilty was returned against each defendant to which the defendants excepted and gave notice of appeal to the county court.

"What number should the judgment and transcript carry from the Justice's docket? The number originally assigned to 'A' case as originally filed, or should both numbers that were given to identify the two separate cases on the docket be included in taking the case up to the county court where it will be given a new number, docketed on the county court docket and tried de novo and doubtless both defendants tried together as in the Justice's court? Would the justice have a legal right to correct his docket under such circumstances to correct an error and have the docket conform to the new complaint filed to include both defendants?

" . . . "

Under the facts as set forth in your letter, the joint complaint executed and filed against both of the defendants, is a separate and distinct complaint from the two complaints filed against the defendants separately. Such being the case, the new complaint should be assigned a new file number, and should be docketed as a new complaint.

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The failure to assign a file number to the new complaint was an oversight on the part of the Justice of the Peace, or a mere clerical error, and one which can be corrected without any injury to the rights of the defendants.

You are therefore respectfully advised that it is the opinion of this Department that the Justice of the Peace has the right to correct his docket, by entering therein the file number of the joint complaint against both of the defendants, and that this new file number should be carried on the judgment and transcript on appeal to the county court.

Trusting that this satisfactorily disposes of your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *D. Burle Daviss*  
D. Burle Daviss  
Assistant

DED:ew

RECEIVED 1940

*George E. Mason*  
ATTORNEY GENERAL OF TEXAS



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WRIT